

CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC MEETING TO CONSIDER AN UPDATE ON EXISTING GRANT AGREEMENTS FOR THE PROPOSITION 1B: GOODS MOVEMENT EMISSION REDUCTION PROGRAM AND THE LOWER-EMISSION SCHOOL BUS PROGRAM

The Air Resources Board (ARB or the Board) will conduct a public meeting at the time and place noted below to consider a staff update on existing grant agreements for the Proposition 1B Goods Movement Emission Reduction Program (Goods Movement Program) and the Lower-Emission School Bus Program (School Bus Program), including delegation to the Executive Officer to amend those agreements to reflect funding delays and other implementation issues.

DATE: May 28, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., May 28, 2009, and may continue at 8:30 a.m., on May 29, 2009. Please consult the agenda for the meeting, which will be available at least 10 days before May 28, 2009, to determine the day on which this item will be considered.

If you require special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Under the Goods Movement Program, ARB awards bond funds to local agencies that then offer competitive grants to owners of diesel freight equipment to clean up that equipment ahead of, or in excess of, regulatory or enforceable requirements. These incentives are targeted to reduce emissions from trucks, locomotives, ships at dock, harbor craft, and cargo equipment used to move goods. Under the School Bus Program, ARB awards funds to local air districts that work with school districts to retrofit or replace existing diesel school buses.

ARB staff will provide an oral presentation at the meeting, focused on the Goods Movement Program. Following an update on available funding, staff will describe the changes needed to existing grant agreements to reflect delays in State bond funding, as well as to incorporate other amendments requested by local agencies or proposed by ARB staff to resolve implementation issues.

The majority of the grant agreement amendments are within the Executive Officer's authority to implement under the Goods Movement Program Guidelines adopted by the Board in February 2008. The presentation will summarize those changes and highlight the areas where staff is seeking Board support to change limited provisions of the existing Guidelines to resolve implementation issues. Attachment A to this notice describes the changes being considered for goods movement grant agreements. The attachment identifies the three conforming changes that would also be applied to the school bus grant agreements.

Additional information on the Goods Movement Program is available on ARB's website at <http://www.arb.ca.gov/gmbond>. Additional information on the School Bus Program is available at <http://www.arb.ca.gov/bonds/schoolbus/schoolbus.htm>.

Interested members of the public may also present comments orally or in writing at the meeting, and in writing or by e-mail before the meeting. To be considered by the Board, written comments submissions not physically submitted at the meeting must be received **no later than 12:00 noon, May 27, 2009**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Facsimile submittal: (916) 322-3928

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require 30 copies of any written submission. Also, ARB requests that written and e-mail statements be filed at least 10 days prior to the meeting so that ARB staff and Board members have time to fully consider each comment. Further inquiries regarding this matter should be directed to Mr. Matthew Botill, Air Pollution Specialist, at (916) 445-6243, or Ms. Judith Friedman, Manager, Goods Movement Programs Section, at (916) 324-9949.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: May 14, 2009

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.

ATTACHMENT A

Proposition 1B Goods Movement Emission Reduction Program and Lower-Emission School Bus Program

Description of Changes to Existing Grant Agreements with Local Agencies May 2009 Board Action

Program Background for Goods Movement

The Goods Movement Emission Reduction Program (Program) is a partnership between the Air Resources Board (ARB or Board) and local agencies (like air districts, ports, and transportation agencies) to quickly reduce air pollution emissions and health risk from freight movement along California's priority trade corridors. Proposition 1B authorizes \$1 billion in bond funding for incentives to equipment owners to achieve early or extra emission reductions by cleaning up the diesel equipment used to transport goods.

The Board adopted the Program Guidelines in February 2008. At that meeting, and a subsequent hearing in May 2008, the Board awarded a total of over \$246 million in first year funds to nine local agencies to administer 21 grants. These grants cover cleaner trucks, locomotives, ships at berth, and harbor craft. In June 2008, ARB staff then signed grant agreements with local agencies to administer the funding awarded by the Board. Consistent with the Guidelines, these agreements established milestones and deadlines for local agencies to meet in implementing the projects – based on the expectation that bond funding would be available without delay.

Local agencies actively implemented the Program in the second half of 2008. By December 2008, equipment owners had submitted over 9,500 applications to the local agencies for all project types, requesting over \$385 million in project funds. The agencies have signed roughly 380 contracts with equipment owners in this process. Local agencies requested and ARB disbursed \$20 million in payments for three early grant truck projects, plus some initial local administrative costs.

On December 18, 2008, the State Department of Finance issued Budget Letter 08-33 requiring agencies slated to receive general obligation bond funding (including ARB) to suspend action on these programs. As directed, ARB then instructed local agencies to stop entering into new equipment project contracts or expending funds for signed contracts until ARB is able to secure the bond monies needed to fund those projects.

In April 2009, we received a first installment of bond funding to reimburse ARB for the \$20 million in prior expenditures to local agencies for this Goods Movement Program. In late April 2009, ARB was notified that a second installment would be forthcoming. We expect this latest bond funding to add approximately \$90 million for the Goods Movement Program.

ARB staff identified the subset of grants to be restarted with the \$90 million, consistent with priorities previously established by the Board. The priorities include early grant projects for trucks and shore power, main grant projects for trucks serving ports and intermodal rail yards, and partial funding for a limited number of main grant projects for other trucks. ARB staff expects to notify the affected local agencies in writing later this month and will post those notices on the Program website.

Need to Amend Existing Grant Agreements for Goods Movement

The suspension of bond funding means that local agencies will require additional time to complete projects under the existing grant agreements. We need to amend the agreements to tie the timeframes for completion to the date when ARB notifies a local agency that it can move forward, as bond funds become available. Local agencies have also requested changes to their existing funding awards or conditions, consistent with the adopted Program Guidelines. We support the requests discussed here. ARB staff has also identified a few areas where changes to those Guidelines are necessary to reflect the current uncertainty in the timing for full funding of the existing grant agreements or to support effective implementation.

Changes that require authorization by the Board under the current Program Guidelines are marked with an asterisk (*). ARB staff recommends approval of a Board resolution authorizing those changes to the Guidelines and supporting the Executive Officer's action on the other changes. All of the changes described here would be implemented through amendments to the existing grant agreements.

Broad Changes to Grant Agreements for Goods Movement

1. Tie ARB's Funding Obligation to the Availability of Bond Monies. The existing grant agreements provide that local agencies can request and receive funding from ARB when they demonstrate they have met the performance milestones in the Guidelines. We are adding a provision to each agreement that ARB's obligation to disburse funding is dependent on securing State bond funds. Since the timing and amount of funding for this Program in each bond sale are uncertain, ARB will notify local agencies in writing with authorization to restart projects up to specified funding amounts (grants may be fully or partially funded with each installment of bond monies that ARB receives).

Although the State budget appropriated funds for this Program, ARB is not authorized to disburse money to local agencies until we have secured those funds through approval by the Department of Finance and release of funding by the State Treasurer's Office following bond sales. Local agencies may not proceed with the signing of new contracts or implementation of existing contracts without ARB's written authorization to restart the grant.

2. * Extend the Timelines for Local Agency Action. The existing grant agreements establish the timeframes for local agencies to sign contracts with equipment owners, and additional time to liquidate funds for completed projects. The early grant

projects required contracts by mid-2008 and liquidation by the end of 2008 (except for shore power). The main grants now provide local agencies with 18 months (through December 2009) to sign contracts, followed by 1-4 years to complete the project.

With the delay in bond funding, and uncertainty about the next installments, ARB staff proposes to extend the deadlines to provide time for local agencies to do project solicitation, evaluation, ranking, contracting and funding. The extension will typically cover the amount of time that bond funding for that grant was suspended, plus a short restart period. This general concept will enable ARB staff to look at the individual situation, including when bond funds are made available, to determine the appropriate deadlines in consultation with the local agency. Since the implementing statute defines an absolute maximum time to contract and liquidate funds, the extension must fit within that period or the funds revert to the legislatively-controlled Program account.

3. * Expand the Executive Officer's Authority. The Program Guidelines and Board Resolution 08-12 delegate to the Executive Officer or his designee, the ability to make limited, interim changes to the Guidelines and to bring those changes back to the Board with the next comprehensive update to the Guidelines. To allow the Program to be more responsive to issues and new developments, we propose that the Executive Officer's authority be expanded to include making changes to the Program Guidelines and grant agreements that are consistent with the statute and the goals established by the Board, if needed to enable effective implementation. This provision would offer more flexibility for dealing with unanticipated circumstances, eliminate unnecessary delays, and improve the timely distribution of bond funds in the future.
4. * Reduce the Early Period for Port Truck Retrofits. The Program Guidelines currently require that bond-funded truck retrofits with particulate matter (PM) filters be completed early (at least 6 months prior to a regulatory requirement). With the January 1, 2010, compliance deadline in ARB's drayage truck rule, bond-funded retrofits for trucks serving ports and intermodal rail yards must be completed by June 30, 2009. Due to the delay in availability of bond funds, it is no longer possible to meet that deadline. However, when the Board adopted the drayage rule, we expected that substantial bond funds would be available for early compliance, with retrofits as the top funding priority.

In light of the extraordinary circumstances, we recommend that the Board reduce the early period for installation of PM retrofits on trucks serving ports and intermodal rail yards such that projects completed by December 31, 2009, are eligible for bond funding. Staff believes that this represents the earliest feasible deadline. After ARB notifies the local agencies that there is bond funding to re-start the port truck grants, local agencies must complete the evaluation process, rank and select projects for funding, and sign contracts with truck owners. Once a truck owner has a contract, the filter must be ordered, manufactured (in many cases), delivered and installed. With fast action by local agencies, we expect that all of these steps will take about 6 months.

5. * Reduce the Early Period for Model Year 1998 and 1999 Other Truck Replacements. The Program Guidelines require that replacements be operational at least 3 years prior to the best available technology provisions of applicable rules (1997 and older trucks are already permitted a 2-year early period). Under the statewide truck and bus rule, the relevant deadline is January 1, 2013, which would require the new trucks to be funded and operational this year. Because of the funding delay, we recommend that the Board reduce the early period for MY1998-1999 other trucks from 3 to 2 years so they can be funded through 2010.
6. Streamline Process to Transfer Funds from Truck Retrofits to Replacements. The grant agreements allow local agencies with truck grants to shift funds allocated for truck retrofits to truck replacements if there is a lack of demand for retrofit funding. To do so, the agencies must submit a formal request and receive written approval from ARB. Since the demand for retrofit projects is significantly less than anticipated, all of the agencies administering retrofit projects are in the same situation. We are proposing to eliminate the exchange of letters. Consistent with the grant agreements, eligible retrofits would still need to be funded first; any remaining funds could then be quickly applied to replacement projects.
7. * Shorten Contract Term for Truck Projects. The current Guidelines require that truck owners be under contract for a specified project life and subject to Program operating conditions (like 100 percent operation in California). With the Board's subsequent adoption of the statewide truck and bus rule, there is now additional certainty that clean trucks will stay in operation in California. With this rule, we believe it is appropriate to shorten the length of time that each truck would need to remain under contract. Specifically, shorten the project life from 8 years to 5 years for truck replacements and repowers, and decrease the life from 4 years to 2 years for retrofits. These changes would apply to all truck contracts funded under the existing grant agreements.

These changes are necessary to harmonize the Program requirements with the statewide truck and bus rule. For example, the timing of the bond funding and the rule deadlines mean that a truck retrofit with a PM filter may not be able to operate for 4 years before the next rule milestone requires replacement of that truck. With these changes, the resulting projects would still achieve cost-effective emission reductions.

Region-Specific Changes to Grant Agreements for Goods Movement

8. Administration of Funding for Trucks Serving the Ports of Los Angeles and Long Beach. ARB awarded a \$98 million grant jointly to the Port of Los Angeles and the Port of Long Beach to replace nearly 2,000 old trucks with the owner's choice of a new diesel or alternative fuel model. Despite the impending ARB and port requirements for cleaner trucks, there has been a lack of applications for bond-related funding because of the structure of the gate fees established by the ports. Truck owners who receive a \$50,000 grant from port-administered bond funds for a new diesel truck are subject to gate fees that can exceed \$100,000 over the first five years (alternative fuel trucks receiving the same bond funding are exempt from the gate fees).

Unless the ports choose to amend the existing gate fee structure, ARB staff believes that the unused grant funds should be transferred to the South Coast Air Quality Management District for administration as permitted under the existing grant. The South Coast District would follow Program Guidelines to solicit and competitively rank applications based on the emission reductions to be achieved and bond-cost effectiveness. Regardless of fuel type, new trucks receiving bond funding outside of the port-administered program are exempt from gate fees. Altering the existing situation to allow truck owners to obtain bond funding for scrapping an old truck and replacing it with a new model (diesel, natural gas, or other) without gate fees would significantly increase the number of truck replacements accomplished this year.

The existing grant agreement provides two mechanisms to activate the defined backup project administered by the South Coast District for trucks serving the two ports: (a) the ports can request this change, or (b) ARB can exercise its option to transfer administrative responsibility because the ports are "...constrained from implementing the Project due to a court order or other legal proceedings that renders the Local Agency unlikely to be able to fully expend the Program funds according to the Project Schedule." Constraint was created by the ports when they adopted the gate fees. The South Coast District has confirmed its ability to take over administration of this grant and we are in discussions with the ports about the next steps.

9. * Re-Allocate Bay Area Harbor Craft Funds to Port Trucks. The Bay Area Air Quality Management District has requested that ARB reallocate the \$4,263,844 grant for harbor craft projects to the District's existing port truck grant. This request is based on a lack of demand for harbor craft funding and the need for additional port truck funding prior to the upcoming January 2010 compliance deadline in ARB's drayage truck rule. ARB staff supports this request.
10. * Ability to Re-Allocate San Diego Shore Power Funds to Truck Projects. The Port of San Diego applied for and received a \$2.5 million grant award to install grid-based shore power at a cargo berth for ships carrying refrigerated products with high power demands at dock. The shipping line expected to participate has indicated a lack of interest in the proposed grant project. If the Port cannot secure a participant shipper in summer 2009, staff proposes to reallocate the \$2.5 million to truck projects in the San Diego/Border Corridor. This option to transfer funds from shore power to trucks may be necessary to ensure that funds can be used and do not revert back to the legislatively-controlled Program account.

The first priority would be to provide additional funding to the San Diego Air Pollution Control District under its existing grant for port trucks, if there is a demonstrated demand and the funds could be quickly utilized. The next priority would be to provide additional funding to the San Diego District and/or the Imperial County Air Pollution Control District under their existing grants for other trucks in that corridor. Demand and the ability to act quickly must remain a consideration. If the funds could not be utilized in the San Diego/Border corridor within the statutory deadlines, ARB would make those monies available for truck projects in other regions.

11. Truck Travel in the San Diego/Border Corridor. Following signature of the grant agreement, the San Diego District requested the ability to implement one of the defined project alternatives that would allow the District to require that trucks receiving funding travel at least 10 percent of their annual miles in the San Diego/Border corridor. We support this request.

Lower-Emission School Bus Program

Please see the website at <http://www.arb.ca.gov/bonds/schoolbus/schoolbus.htm> for a complete description and the current status of the Proposition 1B Lower-Emission School Bus Program. For school buses, ARB also adopted implementing guidelines and awarded Proposition 1B grants totaling over \$191 million to air districts. We received a first installment of \$11 million in bond funds to reimburse ARB for prior expenditures on the School Bus Program and expect that the second installment will add approximately \$71 million for the School Bus Program.

Similar to the Goods Movement Program, the suspension of bond funding for the School Bus Program also means that local districts will require additional time to complete projects under the existing grant agreements. With the uncertainty in the timing for full bond funding for the School Bus Program, we are asking the Board to provide the ARB Executive Officer with the authority and flexibility to make future changes to the Lower-Emission School Bus Program Guidelines, if needed to support effective implementation.

ARB staff recommends that the Board authorize conforming changes for the School Bus Program based on the following items:

1. Tie ARB's Funding Obligation to the Availability of Bond Monies. The existing grant agreements provide that local air districts can request and receive funding from ARB when they demonstrate they have met the performance milestones in the Guidelines. We are adding a provision to each agreement that ARB's obligation to disburse funding is dependent on securing State bond funds. Since the timing and amount of funding for this Program in each bond sale are uncertain, ARB will notify local air districts in writing with authorization to restart projects up to specified funding amounts (grants may be fully or partially funded with each installment of bond monies that ARB receives).

Although the State budget appropriated funds for this Program, ARB is not authorized to disburse money to local air districts until we have secured those funds through approval by the Department of Finance and release of funding by the State Treasurer's Office following bond sales. Local air districts may not proceed with the signing of new contracts or implementation of existing contracts without ARB's written authorization to restart the grant.

2. Extend the Timelines for Local Air District Action. With the delay in bond funding, and uncertainty about the next installments, ARB staff proposes to extend the deadlines to provide time for local air districts to do project solicitation, evaluation, ranking, contracting and funding. The extension will typically cover the amount of time that bond funding for that grant was suspended, plus a short restart period.

This general concept will enable ARB staff to look at the individual situation, including when bond funds are made available, to determine the appropriate deadlines in consultation with the local air district.

3. Expand the Executive Officer's Authority. The Program Guidelines and Board Resolution 08-23 delegate to the Executive Officer or his designee, the ability to change the match requirement and school bus cost cap of the Guidelines only. To allow the Program to be more responsive to issues and new developments, we propose that the Executive Officer's authority be expanded to include making changes to the Program Guidelines and grant agreements that are consistent with the statute and the goals established by the Board, if needed to enable effective implementation. This provision would offer more flexibility for dealing with unanticipated circumstances, eliminate unnecessary delays, and improve the timely distribution of bond funds in the future.